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7 Of Counsel:
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9 *Attorneys for the United States*

10 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

11
12 UNITED STATES OF AMERICA,)
13) Case No. 2:18-cv-296
Plaintiff,)
14) **COMPLAINT**
v.)
15)
CARRIE GAGE, individually, and as the)
16 representative of the ESTATE OF GARY)
G. GAGE,)
17)
Defendants.)
18 _____)

19 The United States of America hereby complains and alleges as follows:
20

INTRODUCTION

1. This is a civil action by the United States to reduce to judgment federal tax assessments against the Estate of Gary G. Gage (“the Estate”) for the tax years 2004 through 2008 and to reduce to judgment federal tax assessments against Carrie Gage (“Mrs. Gage”) for the tax years 2004 through 2006.

2. Gary G. Gage (“Mr. Gage”) and Mrs. Gage were married until Mr. Gage’s death

3. Mr. and Mrs. Gage have a history of raising frivolous arguments to contest their income tax liability and have failed to file income tax returns or voluntarily pay any tax since 2004.

4. Gary G. Gage passed away in March, 2018.

5. The United States has also filed a petition for judicial approval of a levy upon the principal residence of Mr. Gage and Mrs. Gage. *See generally United States v. Gage*, 2:16-cv-00261-SAB, ECF No. 1. A hearing on the United States’ petition is presently set for October 30, 2018, at 2:15 p.m.

JURISDICTION AND VENUE

6. This action is commenced pursuant to 26 U.S.C. §§ 7401 and 7403(a) at the direction of the Attorney General of the United States and at the request and with the authorization of the Chief Counsel of the Internal Revenue Service (“IRS”), a duly authorized delegate of the Secretary of the Treasury.

7. The Court has jurisdiction over this action pursuant to 26 U.S.C. § 7402 and 28 U.S.C. §§ 1340 and 1345.

8. Venue is proper in the Eastern District of Washington under 28 U.S.C. §§ 1391(b) and 1396 because the tax liabilities at issue accrued in this district.

DEFENDANTS

9. The Estate of Gary G. Gage is named as a defendant because it has unpaid federal tax liabilities for which the United States seeks a judgment.

10. Carrie Gage is named as a defendant because she has unpaid federal tax liabilities for which the United States seeks a judgment.

FEDERAL TAX LIABILITIES AND LIENS

11. The IRS, a duly authorized delegate of the Secretary of the Treasury, timely assessed federal income taxes (Form 1040), penalties, and interest against Mr. Gage as follows:

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>	<u>Unpaid Balance as of 1/28/16</u>
2004	10/6/2008	Income Tax Assessed: \$9,071.00	\$9,363.42
	10/6/2008	Failure to Pay Penalty: \$259.95	
	10/6/2008	Late Filing Penalty: \$ 2,040.98	
	10/6/2008	Interest: \$3,101.28	
	10/6/2008	Late Payment Penalty: \$1,904.91	
	7/6/2009	Fees and Collection Costs: \$84.00	
	10/25/2010	Late Payment Penalty: \$362.83	
	11/25/2013	Interest: \$2,530.89	
2005	11/24/2014	Interest: \$266.66	\$62,937.49
2005	10/6/2008	Income Tax Assessed: \$27,940.00	\$62,937.49
	10/6/2008	Failure to Pay Penalty: \$1,120.72	

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>	<u>Unpaid Balance as of 1/28/16</u>
	10/6/2008	Late Filing Penalty: \$6,286.50	
	10/6/2008	Interest: \$6,781.21	
	10/6/2008	Late Payment Penalty: \$4,191.00	
	10/25/2010	Late Payment Penalty: \$2,794.00	
	11/25/2013	Interest: \$9,906.44	
	11/24/2014	Interest: \$1,792.35	
2006	10/6/2008	Income Tax Assessed: \$27,473.00	
	10/6/2008	Failure to Pay Penalty: \$1,300.12	
	10/6/2008	Late Filing Penalty: \$6,181.43	
	10/6/2008	Interest: \$3,645.65	\$58,067.68
	10/6/2008	Late Payment Penalty: \$2,472.57	
	10/25/2010	Late Payment Penalty: \$4,395.67	
	11/25/2013	Interest: \$8,984.76	
	11/24/2014	Interest: \$1,653.66	
2007	10/11/2010	Income Tax Assessed: \$77,240.00	
	10/11/2010	Failure to Pay Penalty: \$3,479.71	
	10/11/2010	Late Filing Penalty: \$17,220.15	\$149,408.33
	10/11/2010	Interest: \$11,288.56	
	10/11/2010	Late Payment Penalty: \$11,480.10	
	4/4/2011	Fees and Collection Costs: \$170.00	
2008	11/21/2011	Income Tax Assessed: \$71,620.00	
	11/21/2011	Failure to Pay Penalty: \$2,282.62	
	11/21/2011	Late Filing Penalty: \$15,994.80	
	11/21/2011	Interest: \$9,179.17	
	11/21/2011	Late Payment Penalty: \$11,374.08	\$131,517.97
	1/2/2012	Fees and Collection Costs: \$124.00	
	2/6/2012	Fees and Collection Costs: \$46.00	
	11/25/2013	Interest: \$6,844.90	
	11/25/2013	Failure to Pay Penalty: \$6,397.92	
	11/24/2014	Interest: \$3,745.40	
TOTAL:			\$411,294.89

12. The IRS, a duly authorized delegate of the Secretary of the Treasury, timely assessed federal income taxes (Form 1040), penalties, and interest against Mrs. Gage as follows:

<u>Tax Year</u>	<u>Assessment Date</u>	<u>Assessment Amount</u>		<u>Unpaid Balance as of 1/18/2016</u>
2004	12/08/2008	Income Tax Assessed:	\$2,399.00	\$1,812.49
	12/08/2008	Failure to Pay Penalty:	\$68.74	
	12/08/2008	Late Filing Penalty:	\$539.78	
	12/08/2008	Interest:	\$859.22	
	12/08/2008	Late Payment Penalty:	\$527.78	
	3/21/2011	Fees and Collection Costs:	\$170.00	
	10/15/2012	Late Payment Penalty:	\$71.96	
	10/21/2013	Interest:	\$852.65	
	10/20/2014	Interest:	\$124.82	
2005	12/08/2008	Income Tax Assessed:	\$14,977.00	33,612.46
	12/08/2008	Failure to Pay Penalty:	\$600.76	
	12/08/2008	Late Filing Penalty:	\$3,369.83	
	12/08/2008	Interest:	\$3,863.19	
	12/08/2008	Late Payment Penalty:	\$2,396.32	
	10/15/2012	Late Payment Penalty:	\$1,347.92	
	10/21/2013	Interest:	\$4,874.65	
	10/20/2014	Interest:	\$954.47	
2006	12/08/2008	Income Tax Assessed:	14,365.00	\$30,187.84
	12/08/2008	Failure to Pay Penalty:	679.79	
	12/08/2008	Late Filing Penalty:	3,232.13	
	12/08/2008	Interest:	2,108.68	
	12/08/2008	Late Payment Penalty:	1,436.50	
	10/15/2012	Late Payment Penalty:	2,154.74	
	10/21/2013	Interest:	4,250.61	
	10/20/2014	Interest:	857.23	
TOTAL:				\$65,612.79

13. Since the dates of assessments described in paragraphs 12 and 13 above, interest and other statutory additions have accrued and will continue to accrue as provided by law. As of January 28, 2018, the Estate owes \$411,294.89 in federal income tax liabilities, and as of January 18, 2018, Mrs. Gage owes \$65,612.79 in federal income tax liabilities.

14. Despite timely notice and demand for payment of the assessed sums described in paragraphs 12 and 13 above, the Estate and Mrs. Gage have refused or neglected to pay the assessed amounts to the United States. Therefore, pursuant to 26 U.S.C. §§ 6321 and 6322, federal tax liens arose in favor of the United States upon all property and rights to property belonging to the Estate and Mrs. Gage as of the date of each assessment.

15. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following Notices of Federal Tax Lien (“NFTL”) naming Mr. Gage as the taxpayer:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Spokane County	1040	2004, 2005, 2006	6/19/2009
Spokane County	1040	2007	3/14/2011
Spokane County	1040	2008	12/12/2011

16. In order to provide notice to third parties entitled to notice of the statutory liens under 26 U.S.C. § 6323, the IRS recorded the following NFTLs naming Mrs. Gage as the taxpayer:

<u>Location of Filing</u>	<u>Kind of Tax</u>	<u>Tax Years</u>	<u>Filing Date</u>
Spokane County	1040	2004, 2005, 2006	2/28/2011

COUNT 1

**Reduce to Judgment Unpaid Federal Tax Assessments Against the Estate of
Gary G. Gage for Tax Years 2004 – 2008**

17. The United States incorporates the allegations stated in paragraphs 1 to 17, above, as if fully set forth here.

18. The IRS timely assessed federal income taxes, interest, and penalties against Mr. Gage for tax years 2004 through 2008, as described in paragraph 12.

19. Despite timely notice and demand for payment of the assessments set forth in paragraph 12, the Estate has neglected, failed, or refused to pay the assessed amounts to the United States.

20. Accordingly, the United States has established a claim against the Estate for unpaid federal income tax liabilities in the amount of \$411,294.89 as of January 28, 2016, plus interest and other statutory additions accruing thereafter.

21. Under 26 U.S.C. § 7402(a), the United States is entitled to judgment against the Estate for the unpaid balance of the assessments for tax years 2004 through 2008 described in paragraph 12, *i.e.*, \$411,294.89 as of January 28, 2016, plus interest and other statutory additions accruing to the date of payment.

COUNT 2

**Reduce to Judgment Unpaid Federal Tax Assessments Against Carrie
Gagefor Tax Years 2004 – 2006**

22. The United States incorporates the allegations stated in paragraphs 1 to 21.

1 23. The IRS timely assessed federal income taxes, interest, and penalties
2 against Mrs. Gage for tax years 2004 through 2006, as described in paragraph 13.

3 24. Despite timely notice and demand for payment of the assessments set
4 forth in paragraph 12, Mrs. Gage has neglected, failed, or refused to pay the
5 assessed amounts to the United States.

6 25. Accordingly, the United States has established a claim against Mrs.
7 Gage for unpaid federal income tax liabilities in the amount of \$65,612.79 as of
8 January 18, 2016, plus interest and other statutory additions accruing thereafter.

9 26. Under 26 U.S.C. § 7402(a), the United States is entitled to judgment
10 against Mrs. Gage for the unpaid balance of the assessments for tax years 2004
11 through 2006 described in paragraph 13, *i.e.*, \$65,612.79 as of January 18, 2016,
12 plus interest and other statutory additions accruing to the date of payment.

13 **WHEREFORE**, the United States prays as follows:

14 A. That the Court determine and adjudge that Defendant Estate of Gary
15 G. Gage is indebted to the United States on the assessments described in paragraph
16 12, above, in the amount of \$411,294.89, plus interest and other statutory additions
17 accruing from January 28, 2016 as provided by law, or in such amount as the Court
18 determines, and that judgment in that amount be entered against the Estate of Gary
19 G. Gage and in favor of the United States;

1 B. That the Court determine and adjudge that Defendant Carrie Gage is
2 indebted to the United States on the assessments described in paragraph 13, above,
3 in the amount of \$65,612.79, plus interest and other statutory additions accruing
4 from January 18, 2016 as provided by law, or in such amount as the Court
5 determines, and that judgment in that amount be entered against Carrie Gage and
6 in favor of the United States; and

7 C. That the United States be granted any other relief as is just and proper.

8 DATE: September 21, 2018

9
10 RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

11
12 s/ Boris Bourget
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17 Of Counsel:

18 JOSEPH H. HARRINGTON
United States Attorney

19 *Attorneys for the United States*
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE